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Charlotte A. Jensen
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PATENT
Client/Matter No. 18950-68

Applicant: Jorma Virtanen
Serial No.: 09/976,718
Filed: October 13, 2001
Title: Assay Device and Method
Examiner: Ardin H. Marschel
Group Art Unit: 1631

#7
Plunkett
5/12/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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RESPONSE TO OFFICE ACTION OF MARCH 10, 2003

Sir:

In response to the Office Action of March 10, 2003, Applicant makes the following election of species:

FIRST SPECIE ELECTION REQUIREMENT

In response to the first species election requirement, Applicant elects Species B entitled "Assay device and method practice wherein the computer software on the assay disc includes assay interpretive algorithms." Generic claims elected as reading on this embodiment include claims 52, 53, 56-69 and 73-87 as stated in the Office Action. An additional species claim 71 is also elected for examination as to Species B.

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SECOND SPECIE ELECTION REQUIREMENT

In response to the second species election requirement, Applicant elects Species F entitled "Assay device and method practice without a cleavable signal element." The generic claims readable on this species, including generic claims 52-55, 65-81 and 84-90 (as noted in the Office Action), are elected for continued examination as part of the elected species. There does not appear to be a non-generic species claim.

THIRD SPECIE ELECTION REQUIREMENT

In response to the third species election requirement of the Office Action requirement, Applicant elects Species H entitled "Assay device and method practice without a metal microsphere signal responsive element therein." Generic claims readable thereon and elected with this species election include generic claims 52-57 and 62-90. There does not appear to be a non-generic species claim.

It is respectfully submitted that the remaining claims discussed hereinafter should also be examined once the Examiner has allowed a generic claim. Claims not elected in response to the first election requirement include claims 70, 88, 89 and 90, which are believed to relate to Species A, claim 72 which relates to Species C, claim 55 which relates to Species D and claim 54 which relates to Species E. Claims not elected in the second species election include claims 56, 57, 62, 63 and 64, which are believed to relate to Species G not elected herein. With regard to the third species election, claims 58, 59, 60 and 61 are believed to be related to the non-elected Species I.

As noted above, it is requested that each of these non-elected species and claims be examined upon the allowance of a generic claim.

Applicant requests a one-month extension of time to extend the response date from the original response date of April 10, 2003, to a new response date of May 10, 2003. Please charge the extension fees of \$55.00 to our miscellaneous fees Account No. 16-2230.

The commissioner is hereby authorized to charge any additional filing fees under 37 CFR Sec. 1.16, or application processing fees under 37 CFR Sec. 1.17, which may be required now or during the pendency of this application, or credit any overpayment to Account No. 16-2230.

Respectfully submitted,

Dated: May 7, 2003

A handwritten signature in black ink, appearing to read "Guy Porter Smith", written over a horizontal line.

Guy Porter Smith, Reg. No. 20, 142
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